

PATENT

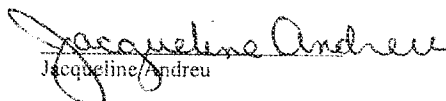
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: John G. Babish, *et al.*
Application No.: 10/590,424
Filing Date: April 2, 2007
Docket Number: 068911-0160
Title: SYNERGISTIC ANTI-INFLAMMATORY
PHARMACEUTICAL COMPOSITIONS AND
RELATED METHODS USING CURCUMINOIDS OR
METHYLYXANTHINES
Examiner: Kendra D. Carter
Art Unit: 1627

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to Mail Stop: Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted (571) 273-8300 or filed online via EFS-Web to the USPTO, on the date indicated below.

Date: December 28, 2010


Jacqueline Andreu

MAIL STOP AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION OF DENNIS EMMA 37 C.F.R. §1.132

I, Dennis Emma, Ph.D., J.D., declare as follows:

1. I am the Director of Intellectual Property of Metaproteomics LLC, which is the Assignee of the above-referenced application by virtue of the Assignment filed on 04/02/2007 at Reel/Frame No. 019079/0199.
2. I am familiar with the prosecution of the above-referenced patent application.

3. In an Office Action mailed June 29, 2010, for the above-referenced application, the Office has rejected the claims under 35 U.S.C. § 102(e) and 35 U.S.C. § 103(a) over U.S. Patent Publication No. 2003/0096027, which is also Assigned to Metaproteomics LLC by virtue of an Assignment filed on 10/25/2002 in Reel/Frame No. 013698/0157.
4. Specifically, the Office has stated that "[t]he applied reference has a common inventor (John G Babish) with the instant application." The Office has asserted that the 102(e) and the 103(a) rejections "might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131." (Office Action, at pages 3 and 5).
5. I respectfully submit that the subject matter disclosed in U.S. Patent Publication No. 2003/0096027 was derived from the inventor (John G Babish) in the present application. Therefore, U.S. Patent Publication No. 2003/0096027 is not an invention "by another."
6. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully Submitted,


Dennis Emma Ph.D., J.D.

Date: December 28, 2010